THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25076 of 2006

05.3.2007

Between:

The Communist Party of India (Marxist),
Tadepally Division Committee, represented by its
Secretariat Member, B.Ram Mohan Reddy, S/o.Gopi Reddy

… Petitioner

AND

Tadepally Gram Panchayat, represented by its
Panchayat Secretary, Tadepally Village & Mandal
And another

… Respondents

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ORDER:

Communist Party of India (Marxist), Tadepally Division Committee, is the petitioner herein. A writ of Mandamus is sought declaring the action of the first respondent, namely, Tadepally Gram Panchayat, in removing Amarareddy Martyrs Memorial, Yadav Bus Stop, Anjireddy Statue and drinking water well, as illegal and contrary to the provisions of A.P. Water, Land and Trees Act, 2002 and A.P. Panchayat Raj Act, 1994. They also seek a direction to set aside the resolution dated 30.10.2006 passed by the Gram Panchayat.

It is the case of the petitioner that in 1981, the petitioner collected donations and erected memorial "Amarareddy Memorial". Every year on the day of assassination of Amarareddy, the petitioner statedly conducts meetings for offering respects to the leader. The petitioner alleges that the second respondent who was elected as Sarpanch of the Village out of ill will towards late Amarareddy influenced the Gram Panchayat to pass resolution to remove martyrs memorial in the guise of widening the road and construction of bus stop at auto stand.

At the stage of admission itself, the Gram Panchayat has filed a detailed counter affidavit. The allegation that Gram Panchayat permitted for construction of Amarareddy Stupam (memorial structure) on the road margin is denied. It is stated that the said Stupam was constructed by encroaching public place without permission from the Gram Panchayat or from the Department of Roads and Buildings. The Gram Panchayat took unanimous decision for widening the road. On 30.10.2006 in the ordinary meeting of the Gram Panchayat out of 21 members, 18 members passed resolution to remove the structures on

the road margin, which are coming within the widening portion. It is further stated that the Stupam is situated in the main road leading to Prakasam barrage road from Ongole Highway road with heavy traffic on the road. Existing width of 18 feet is not sufficient to handle the traffic. Though there is a well, it has become defunct and was closed in the road widening process. It is also stated that the Gram Panchayat decided to construct a bus shelter with modern facilities in a different place after road widening is completed and except the petitioner nobody is obstructing for the same. The petitioner made construction illegally by encroaching the public road and public place and, therefore, keeping in view the sentiments a notice was issued to remove the obstruction. The allegation that the Gram Panchayat tried to remove/demolish the Stupam forcibly is denied. It is also stated that in view of the interim orders passed by this Court, road widening programme and developmental activities are hampered. The petitioner has not filed any reply affidavit denying the counter averments.

Heard the learned Counsel for the petitioner and learned Standing Counsel for the Gram Panchayat.

Though the petitioner alleges that the memorial was constructed after obtaining necessary approval by the Gram Panchayat, no such approval is placed before this Court. The photographs filed by the petitioner would certainly lead to an inference that there is any amount of congestion on the road and that unless the road is widened, it is likely to cause serious problems to the commuters and passersby. This Court repeatedly asked the learned Counsel for the petitioner about the right of the petitioner to insist the Stupam on the road margin as it stands. Learned Counsel fairly submits that no such right inheres in the petitioner to occupy the road margin and raise structures as per its desire. Lastly it is submitted that the petitioner has already approached the Gram Panchayat to provide alternate site for re-erecting Stupam. If that be so, it is always open to the first respondent to consider such request and pass appropriate orders. In this writ petition, no relief can be granted.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO,J**)

March 05, 2007

NOTE:

Issue order copy by

12.3.2007.

(By order)

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